

REQUEST FOR COUNCIL ACTION

MEETING

DATE: 1-21-04

61

AGENDA SECTION:
CONTINUED - PUBLIC HEARINGS

ORIGINATING DEPT:
PLANNING

ITEM NO.

E-1

ITEM DESCRIPTION: Zoning District Amendment #03-22, by COPAR Development, proposing to re-zone 94.14 acres of land from R-1 (Mixed Single Family) to the R-1X (Mixed Single Family Extra) district, and to develop the land with low density residential dwellings at densities ranging from 9 units/acre to 12 units/acre. The property is located west of TH 63, south of TH 52 and Southtown Heights and north of 36th ST. SW. A General Development Plan is being considered concurrent with this application.

PREPARED BY:
Mitzi A. Baker,
Senior Planner

December 18, 2003

City Planning and Zoning Commission Recommendation:

The City Planning and Zoning Commission held a public hearing on December 10, 2003, to consider this petition.

The Commission recommends approval to re-zone approximately 94.14 acres of land from R-1 to R-1X. The motion carried 7-2. Please see the attached minutes for additional details.

Planning Staff Recommendation:

See attached staff report.

Council Action Needed:

The Council should direct the City Attorney to prepare findings of fact reflecting the Council's decision on this zone change.

If the Council approves this zone change as petitioned, it should instruct the City Attorney to prepare an ordinance that can be adopted supported by findings of fact and conclusions of law to amend the Zoning for the property.

Distribution:

1. City Administrator
2. City Attorney: Legal Description attached
3. Planning Department File
4. McGhie & Betts, Inc.
5. Applicant: This item will be considered sometime after 7:00 p.m. on WEDNESDAY January 21, 2004 in the Council/Board Chambers at the Government Center, 151 4th Street SE.

COUNCIL ACTION:

Motion By:

Seconded By:

Action:

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Minnesota Department of Natural Resources

Division of Ecological Services
261 Highway 15 South
New Ulm, MN 56073



-electronic copy, signed copy will be sent-

1/15/04

Rochester City Council (c/o Mitzi Baker, Planner)
City of Rochester
2122 Campus Drive, Suite 100
Rochester, MN 55904

Dear Rochester City Council:

The Minnesota Department of Natural Resources (DNR) appreciates the opportunity to review the General Development Plan (GDP) for Spring Brook Valley. We apologize for not providing input within the designated comment period. DNR stands by our comment letter sent on 1/5/04 (hereinafter referred to as "previous comments"); however, our response may not have been clearly explained. Please accept this letter as an addendum to our previous comments.

Based on available information, questions were brought forward regarding the wetland delineations on the Spring Brook Valley site. Previous delineation reports associated with sewer line projects and fen evaluations denoted wetland locations on the western portions of the property and as a result of the Spring Brook Valley proposal, wetlands on the eastern portions of the property were delineated in the fall of 2003. DNR has had opportunity to comment on the sewer line applications and during the development of a fen management plan for Barony Woods. The Spring Brook Valley wetland delineation for the area to be developed (eastern portions of the property) was site-reviewed by John Harford (WCA administrator) and Mary Kells (Board of Water and Soil Resources). A DNR representative was unable to attend this site review. The wetland delineation map was finalized after site surveys were completed by the consultant.

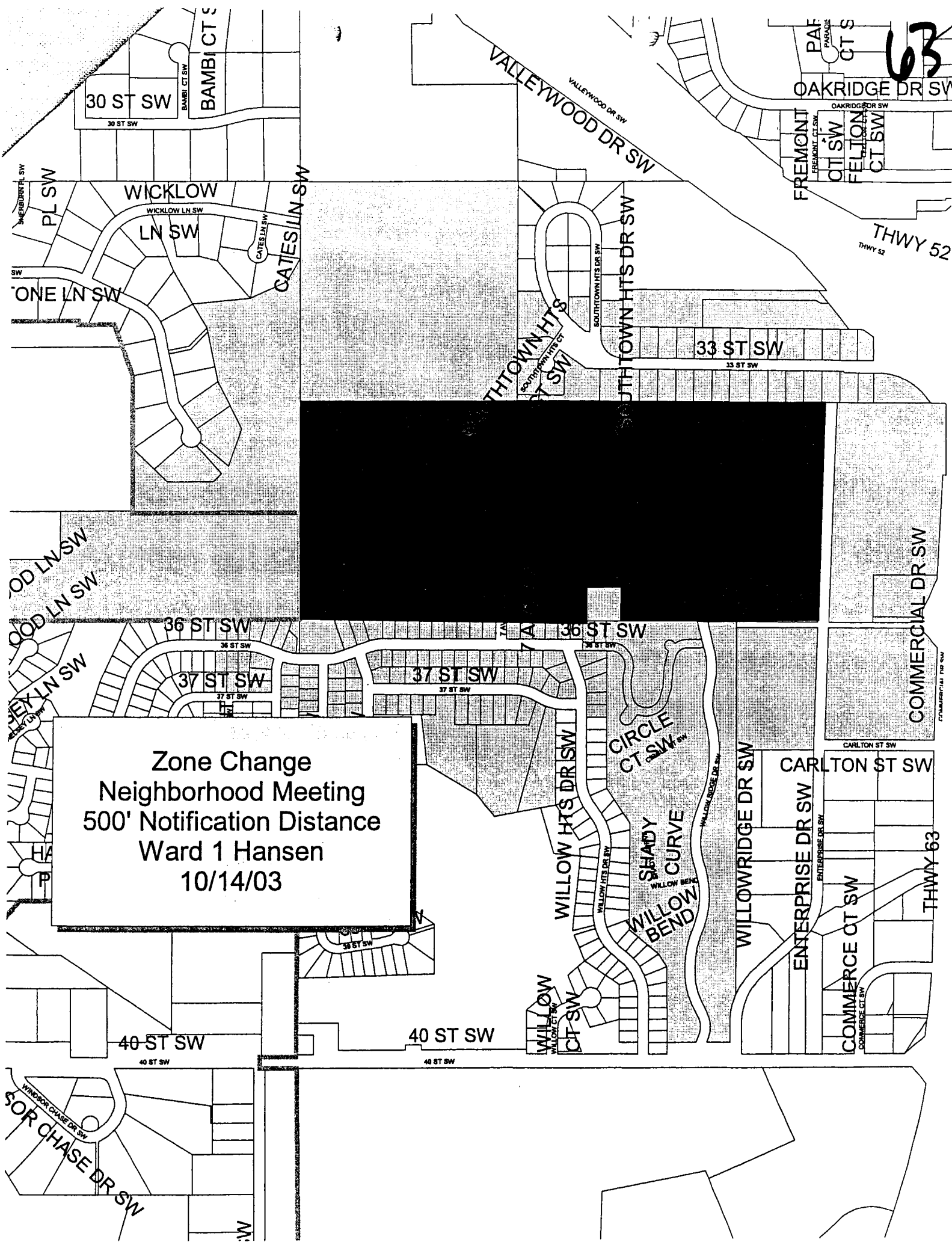
The final delineation map for the Spring Brook Valley project was received by John Harford during the week of January 5th. Following WCA procedures, Mr. Harford sent the wetland report out to the Technical Evaluation Panel members for review. The DNR has now received a copy of the wetland delineation map for the Spring Brook Valley site, but has not had an opportunity to review it. Based on my conversations with John Harford, DNR believes that proper delineations were completed and assume the consultant will continue to work with Mr. Harford through WCA procedures to avoid and minimize wetland impacts. If the DNR has any additional comments about the Spring Brook Valley wetland delineation, we will forward them through appropriate WCA processes.

The DNR expressed concern in our previous comments about the completion of an environmental assessment worksheet (EAW) on the Spring Brook Valley development and other similarly sensitive sites. It remains our concern that small residential projects proposed for sensitive areas may not reach environmental review thresholds under the Minnesota Environmental Policy Act. Based on DNR discussions with Jeff Broberg, the consultant for the Spring Brook Valley development, we are confident that an EAW will be completed on this project. In sensitive areas, DNR requests that no site impacts, including grading and site preparation, be allowed prior to the completion, review, and approval of an EAW.

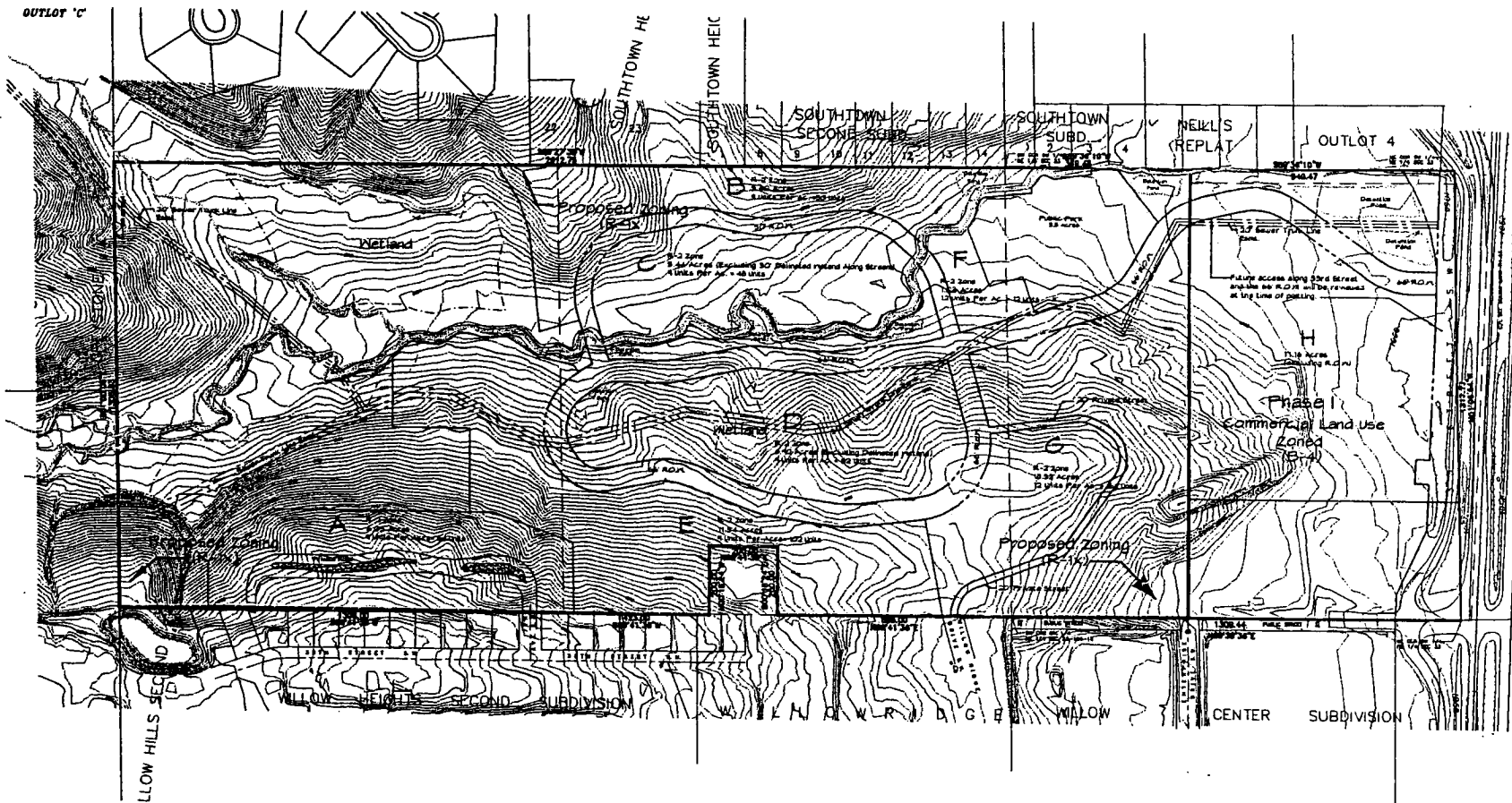
Long-term protection of the Mutschler Fen is a priority to the DNR. Based on discussions with the consultant and Rochester planning staff, I have initiated an inquiry to determine the potential inclusion of the fen area into the Scientific and Natural Areas (SNA) program. Inclusion in this program is a complex process and many criteria need to be satisfied. As an SNA, the fen would have extended protection. DNR looks forward to working with the consultant and developer on this project. Please feel free to contact me at any time if you have any questions.

Regards,
Shannon J. Fisher, Ph.D.
Environmental Assessment Ecologist
(507) 359-6073; Shannon.fisher@dnr.state.mn.us

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OUTLOT 'C'



Tom Ransom
200 Main Street
Reading, MA 01860
AND NO. 1000/1000
Project No. 32, 33
Project No. 34
Project No. 35

GENERAL DEVELOPMENT PLAN **Spring Brook Valley**

REVISED
 12-22-03

Zoning Exhibit

Tom Hansen Property



Land Surveying
Water-land Planning
Engineering
Civil Engineering
Mechanical Engineering
Structural Engineering
Electrical Engineering
Surveying
Mapping
Photogrammetry
GIS
3D Modeling
3D Animation
3D Rendering
3D Printing
3D Scanning
3D Modeling
3D Animation
3D Rendering
3D Printing
3D Scanning

SOUTHTOWN
HEIGHTS REPL

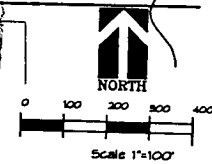
33 ST SW

Zone
R-1 to R-2

Future Frontage Road
For Highway 69

36 ST SW

1 AVE SW



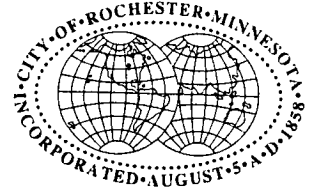
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ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744



COUNTY OF

Olmsted

www.olmstedcounty.com/planning

TO: City Planning and Zoning Commission

FROM: Mitzi A. Baker, Senior Planner

DATE: December 4, 2003

RE: Zoning District Amendment #03-22, by COPAR Development, proposing to re-zone 94.14 acres of land from R-1 (Mixed Single Family) to the R-2 (Low Density Residential) district, and to develop the land with low density residential dwellings at densities ranging from 9 units/acre to 12 units/acre. The property is located west of TH 63, south of TH 52 and Southtown Heights and north of 36th ST. SW. A General Development Plan is being considered concurrent with this application.

Planning Department Review:

Petitioner: COPAR Development, LLC
406 Main Street
Red Wing, MN 55066

Property Owner: Rochester Properties
1224 W 96th Street
Bloomington, MN 55431

Mills Properties
PO Box 971
Brained, MN 56401

Consultant: McGhie & Betts, Inc.
1648 Third Ave. SE
Rochester, MN 55904

Location of Property: The property is located west of TH 63 S, west of the Fleet Farm store, north of 36th St. SW and east of the Greystone development.

Requested Action: The applicant requests 94.14 acres be rezoned from R-1 (Mixed Single Family) to the R-2 (Low Density Residential) district.

Existing Land Use: The property is currently undeveloped.

Proposed Land Use: The applicant has also a General Development Plan that is being considered concurrent with this application. The proposed GDP identifies the property proposed to be zoned R-2 as being developed with densities ranging from 9 to 12 units/acre.

Adjacent Land Use and Zoning: East and Southeast: B-4 (General Commercial) and M-1 (Mixed Commercial – Industrial) including commercial and industrial uses. There is also undeveloped property to the east currently zoned R-1. This land is approximately 160' by 1,120'.



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South: The property to the south is zoned M-1 and R-2 (Low Density Residential) and R-1 (Mixed Single Family Residential). The portion zoned M-1, approximately adjacent to the easterly 1/3 of the property, is developed as an industrial use. Willow Ridge Manufactured Homes Park is zoned R-2 and the single family homes along 36th St. SW are zoned R-1 (Mixed Single Family).

North: Southtown Heights Subdivision that is zoned R-1 and an undeveloped parcel proposed for future single family development.

West: The property to the west is zoned A-4 (Agricultural-Urban Expansion) in the County. Also the Greystone development is located to the northwest, which is, zoned R-1.

Transportation Access: Primary access to this property will be from the TH 63 west frontage road. Additional access is proposed at Willow Ridge Drive SW. A small portion of the site is proposed to be served by extending a private road north at 7th Ave. SW. The City is also recommending the extension of Enterprise Drive SW into the Site, which is currently not identified on the accompanying General Development Plan.

Wetlands: Hydric Soils and Wetlands exist within this property.

Neighborhood Meeting: A neighborhood meeting was held on October 28, 2003. A summary of the meeting is attached.

Referral Comments: See comments attached to staff report for GDP #219 Spring Brook Valley.

Report Attachments:

1. Location Map
2. Area Zoning Map
3. Neighborhood Meeting Summary
4. See Comments Attached to GDP #219

Analysis for Zoning District Amendment:

Under the provisions of Paragraph 60.338 of the Rochester Land Development Manual, the Commission shall recommend for approval and the Council shall approve, an application requesting an amendment to the zoning map if the amendment satisfies the following criteria:

- 1) The criteria of this subdivision apply to those amendments to the zoning map filed by formal petition. An amendment need only satisfy one of the following criteria:
 - a) The area, as presently zoned, is inconsistent with the policies and goals of the Comprehensive Plan;
 - b) The area was originally zoned erroneously due to a technical or administrative error;
 - c) While both the present and proposed zoning districts are consistent with the Plan, the proposed district better furthers the policies and goals of the Comprehensive Plan as found in Chapters 2 and 3 of the Rochester Urban Service Area Land Use Plan, Chapter

3 of the Housing Plan, and Chapter 10 of the ROCOG Long Range Transportation Plan;
or

- d) The area has changed or is changing to such a degree that it is in the public interest to rezone so as to encourage development or redevelopment of the area.

Proposed R-2:

The area as presently zoned is not inconsistent with the policies and goals of the Comprehensive Plan and the property was not zoned erroneously due to a technical or administrative error.

The proposed zoning of the property to the R-2 (Low Density Residential) district is consistent with the land use plan designation of the property as "low density residential" and would serve to better further the policies and goals of the Comprehensive Plan and Housing Plan to encourage developing a range of densities and development styles in the Community.

Changes in this area include reconstruction of TH 52 and TH 63. Future removal of the signalized intersection of 36th St. SW and TH 63 and construction of interchanges at TH 63 and 40th St. S and 48th St. S.

- 2) The criteria of this subdivision also apply to those amendments to the zoning map filed by formal petition. However, an amendment must satisfy all of the following criteria:
- a) the permitted uses allowed within the proposed zoning district will be appropriate on the subject property and compatible with adjacent properties and the neighborhood; and

Proposed R-2: Uses within the R-2 Zoning District would generally appropriate on the property and compatible with adjacent properties. At the time of development, bufferyards may be required in accordance with the Ordinance.

A Calcareous Fen has been delineated in the far northwest portion of the Site. Calcareous fens are the result of glacial deposits that permit a constant upwelling of alkaline groundwater rich in calcium and magnesium bicarbonates. Many rare plants are largely restricted to fens, which cover just over 1,000 acres statewide. A Calcareous Fen has been delineated in the northwest portion of the Site. Prior to designing grading plans or further development proposals for this property, the developer will need to study the impact that the proposed development will/could have on the Fen. In particular, the roadway and development area shown in "Area C" on the Plan could have adverse impacts on the groundwater and surface water flows towards the Fen if not designed properly.

This property includes delineated Wetlands that a Calcareous Fen, a stream corridor, moderate and steep slopes, and Decorah Edge recharge areas. Grading plan and site plan design will need to incorporate natural features, protect Wetlands and reflect densities consistent with the Rochester Zoning Ordinance and Land Development Manual (LDM) regulations. Additionally, portions of this site include wooded hillsides. The applicant should be aware that Section 64.340 of the LDM could require re-vegetation or screening of slopes exposed by new development, primarily on the wooded slopes.

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At the time of development, site capacity calculations will need to be completed, which will determine what the developable acreage is after subtracting certain environmental features.

Considering the sensitivity of this site and its natural landscape, and access, permitted densities in the R-1X district are more appropriate on this property, than the permitted densities in the R-2 district. Consider the following:

The R-1X (Mixed Single Family Extra) district accommodates townhome development and permits a density of up to 5.5 units/acre as a Type I (staff review only) use. Densities up to 15.0 units/acre can be proposed in the R-1X district, but some level of public review would be required when over 5.5 units/acre.

The R-2 (Low Density Residential) district permits up to 9.0 units/acre as a Type I (staff review only) use, and up to 21.78 units/acre through a public review or hearing process.

Increases above Type I density are achieved by inclusion of certain design features in the development plan which, by doing so, qualify the applicant to increase density. For example, bonus density can be granted for preservation of moderate and steep slopes, and woodlands and for incorporating natural drainageways into stormwater management.

Densities permitted in the R-2 district may not be appropriate for this property, considering its location, access and topography. Townhome style development is permitted in the R-1X district, at lower densities than allowed in the R-2 district.

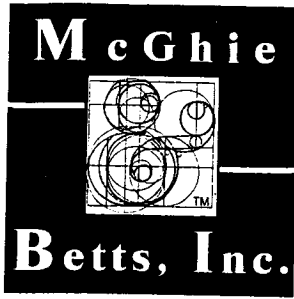
- b) *the proposed amendment does not involve spot zoning. (Spot Zoning involves the reclassification of a single lot or several small lots to a district which is different than that assigned to surrounding properties, for reasons inconsistent with the purposes set forth in this ordinance, the state enabling legislation, or the decisions of courts in this state).*

Proposed R-2: *The R-2 would not be considered spot zoning. R-1X also, would not be considered spot zoning.*

Staff Recommendation:

The ability to consider the Zone Change, Land Use Plan Amendment and General Development Plan concurrently allows the City to consider this development proposal as a package. Based upon the accompanying General Development Plan for this site and the findings above, Staff suggests that the request to rezone the petitioned area to R-2 (Low Density Residential) should be denied. Staff also recommends that the petitioned area should be re-zoned R-1X (Mixed Single Family Extra). The R-1X district allows for lower density thresholds for each review Type (Type I, II or III) and provides opportunities for a higher level of review of site plans, which would be appropriate for this complex and sensitive site.

Staff recommends that a decision on the zoning petition not occur until the issues identified in the General Development Plan review and considered.



Rochester
Minnesota

Land Surveying

Urban - Land Planning

Consulting - Civil Engineering

Geotechnical Engineering

Construction Material Testing

Landscape Architecture

MINUTES FROM THE
NEIGHBORHOOD INFORMATIONAL MEETING
ON OCTOBER 28, 2003
AT THE COUNTRY CLUB INN
Taken by Jeffrey Preuss

In Attendance: See attached list.

Purpose: The purpose of the meeting was to introduce the proposed project to the neighborhood and to answer questions and document concerns or issues that may need further investigation.

General Discussion:

The key speaker was Andy Masterpole from McGhie & Betts, Inc. Tom Hanson from COPAR development was also in attendance. Mr. Masterpole began with a brief introduction about the site. He states that MBI has recently submitted a General Development Plan for approval. The proposal is to rezone the 94-acre parcel from R-1 to R-2. The commercial parcels (B-4) will remain the same. A public hearing at the Planning Commission will be held on November 12th. The City Council meeting will be held on December 1st. The access point will remain the same as stated from prior meetings. Minnesota Department of Transportation will care for a small parcel located in the far northeast corner of the site. The interior circulation will consist of two looping roads and an additional street connection to the south of the site. The southern access point will have an estimated capacity of 500 trips. The main access road will carry 3400 trips. All wetlands on the site are being preserved. An estimated 509 townhomes are proposed to be built on this site.

1. Boards:

- a. Aerial photo will property boundary overlays.
- b. Conceptual zoning and Wetland Preservation Plan.

Questions and Answers:

Q1: What, if any, buffer will be provided to landowners' adjacent to the property?

A1: The required buffer is estimated to be ten feet.

Q2: But the last developer was going to give us fifty feet?

A2: In order to make the project financially feasible, the buffer was reduced.

Q3: Has an EAW been started? Will one be done?

A3: An EAW has been started, although we are unable to turn it in until the proper time.

1648 Third Avenue S.E.
Rochester, MN 55904

Tel. 507.289.3919
Fax. 507.289.7333

e-mail. mbi@mcghiebetts.com

Established 1946



Q4: What is being done to preserve the Decorah Shale edge?

A4: There are currently no ordinances that require the developer to minimize development within the Decorah Edge. McGhie & Betts is well versed in environmentally friendly developments and plan appropriate engineering solutions that best deal with the extra water. As a result, the developer will absorb the additional cost of development.

Q5: When the city sewer line was being put in, the city workers started a natural spring that continues to erode part of the site. Are the soil types suitable for the intensity of development?

A5: Yes.

Q6: Will there be any neighborhood associations for the development?

A6: There will be 3 to 4 subassociations that work under one unified master association.

Q7: What guarantee do we have that you will not put in low-income housing?

A7: We are projecting that all building are owner occupied structures with selling values that range from \$140,000 to \$200,000. We cannot give you any other guarantees.

Q8: When will construction begin and how will that effect current traffic flow?

A8: Construction will begin as early as April 2004. Coordination between highway expansions and this development is being taken into consideration.

Q9: What are you doing to preserve the quality of life for the wildlife?

A9: Over thirty percent of the site will remain undeveloped. These areas are also adjacent to existing preserved areas. The preserved area may also be added to Minnesota Land Trust at a later date, although this is still subject to discussion.

Q10: Will parking from Section A spill over to the adjacent landowners' street?

A10: No. The city requires that parking considerations be dealt with on their own site.

Q11: How do I know you are going to save trees?

A11: Preserving the natural site amenities will increase the property values and decrease development costs. The developer is willing to work with the adjacent neighbors to preserve a buffer of existing trees.

Q12: What are you doing to curb the additional storm water runoff?



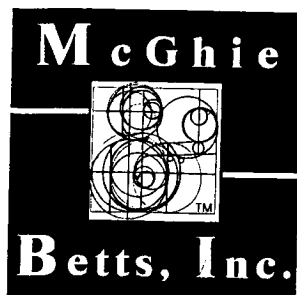
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A12: We are using a series of smaller retention ponds placed in key points of the development. During construction, environmentally sensitive erosion prevention methods will be in place. (i.e. hay bales, wooden staking, etc).

Q13: Can we see an amended plan within one week?

A13: Yes.

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Rochester
Minnesota

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e-mail. mbi@mcghiebetts.com

Established 1946

Attendance Roll

NEIGHBORHOOD INFORMATIONAL MEETING

PROJECT: Spring Brook Valley GDP
Rochester, Minnesota
DATE: October 27, 2003
TIME: 6:30 p.m.
PLACE: Country Inn & Suites
Rochester, Minnesota

NAME	ADDRESS	PHONE NO/ FAX NO/ E-MAIL ADDRESS
1. Josh Ailts	306 33rd St. SW	767-0165
2. Dan Campion	412 33 St SW	288 8601
3. LARRY SMITH	732 37th St. SW	288-7958
4. Kathy Smith	732 37th St. SW	288-7958
5. Alex Leontovich	913 36th St. SW.	289-2452
6. Brenda Bartel	1031 SW 36th St	285 9173
7. Bruce Winter	707 36th St SW	289-2572
8. Craig + Jennifer Mann	715 36 ST S.W.	280 9856
9. Olga Leontovich	913 36th STREET SW	289-2452
10. John Kehler	600 SW 4th St	280-0714
11. JEFFREY Preuss	4863 Opal Ln	619-1111
12. Tom Hexorth	1000 Rocky Creek Dr. NE	254 2064
13. Dennis Hanson	Rochester City Council	281-3013
14. [Signature]	505 33rd St. SW	280-1962

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	NAME	ADDRESS	PHONE NO/ FAX NO/ E-MAIL ADDRESS
15.	Judy Halverson	727 36 th St. S.W.	507-529-1031
16.	Zach Klaus	504 33 rd St SW	282-9993
17.	Tim Daly	708 Southtown Hgts Ct	280-8577
18.	KAREN Edens	1124 36 th St SW	285-3179
19.	Jim LYNCH	733-36 th St S.W.	2886961
20.	Sharon Flynn	401 33 rd St SW	281-4139
21.	Vine Flynn	401-33 rd St SW	281-4139
22.	Bug Johnson	621 36 th St SW	281-4033
23.	Denis Wegner	612- So. To. Hts. Dr. S.W.	288-4902
24.	Wendy Turri	603 33 rd St SW	285-0955
25.	Mike Quiggle	700 36 th St. SW	529-7950
26.	Mike-Jean Fent	609 36 th ST. SW	252-5181
27.	DON STALEY	2435 ASPEN LA SW.	254-7777
28.	Doug L Bell	3217 Emerson Ave ⁵⁵⁴⁰⁸ MPIS	612-267-1145
29.	Sandy Sprung	817 36 th St SW	285-0591
30.	Debra Warren-Lore	304 33 rd St SW	289 8348
31.	Lois Friedt	500-33 St. S.W.	252-0361
32.	Kathy Hohnbaum	416 33 rd St. SW	252-9725
33.			
34.			

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* General Development Plan(GDP) #219, to be known as Spring Brook Valley AND Zoning District Amendment #03-22. The applicant, COPAR Development, is proposing to re-zone 94.14 acres of land from R-1 (Mixed Single Family) to the R-2 (Low Density Residential) district, and to develop the land with low density residential dwellings at densities ranging from 9 units/acre to 12 units/acre. The GDP includes a total of approximately 112 acres of land and proposes to develop the eastern 17.16 acres as in the B-4 (General Commercial) district, with the western 94.14 acres developed in the R-2 (Low Density Residential) district. The Plan also identifies public and private roads, stormwater ponds, public parkland and accesses to the TH 63 Frontage Road. The property is located west of TH 63, south of TH 52 and Southtown Heights and north of 36th ST. SW.

Ms. Mitzi A. Baker presented the staff reports, dated December 4, 2003, to the Commission. The staff reports are on file at the Rochester-Olmsted Planning Department.

Ms. Baker stated that she received a call from the applicant today asking to amend their application to request the R-1x zoning district instead of the R-2. However, staff needs this on record since we do not have this on paper. Staff supports approval of the R-1x zoning district, as indicated in the staff report.

Ms. Baker stated the property owners in the area do not have any interest in having Enterprise Drive constructed. However, it is staff's opinion that it should be constructed. The location of where Enterprise Drive is stubbed into the site is where the B-4 and R-1 districts come together.

Ms. Baker stated that there is a 20 foot private street connecting to Willow Ridge Drive. When the general development was originally submitted, the road configuration was different. In response to some concerns related to the volume of traffic that would access Willow Ridge Drive, the road alignments were changed and the 20 foot wide private street was put in with a curvilinear design to discourage the use of the access. Without this second access, the applicant would be limited to 500 trips. She explained that through the development agreement process, additional traffic calming could be required.

Ms. Baker stated that the extension of Enterprise Drive is not shown on the proposed general development plan. Staff recommends that the extension be included in the general development plan. If the Commission and Council agree, the proposed general development should be denied.

Mr. Quinn asked if Enterprise Drive were shown on the general development plan, would it have to be constructed into the property.

Ms. Baker responded that Enterprise Drive would need to be connected into the property.

Ms. Wiesner asked if the private roadway should be built wider.

Ms. Baker responded that Willow Ridge Drive has a limited capacity. It is operating at approximately 1400 trips. It can handle up to 2000 trips. With the 20 foot private roadway, it will add approximately 544 additional trips. If the roadway is made more convenient, the concern is that the trips would then exceed the capacity of Willow Ridge Drive.

Ms. Wiesner asked if Ms. Baker's comments would be different if the development was approved as R-1x zoning instead of the R-2 zoning district.

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Ms. Baker responded no. The densities on the plan can be done in an R-1x zoning. It would only require a higher level of review. Even though the densities are shown on the plan, they are subject to meeting future reviews, site capacity calculations, etc.

Mr. Haeussinger asked if access off of 36th Street SW wouldn't be a better access alternative.

Ms. Baker responded that there is concern of too much traffic on 36th Street SW. She explained that the concern is between 40th Street SW and Enterprise Drive SW.

Ms. Rivas asked why it was not mentioned in the Public Works comments about the calcareous fen.

Ms. Baker stated that Public Works wouldn't respond to the calcareous fen issue, since they do not have jurisdiction over it. She indicated that she received her information from some wetland experts that it is important to look primarily at grading and development and how it could impact it. She stated that the Public Works staff wouldn't have the level of expertise that they would be aware of it.

Ms. Rivas expressed concern that no one at Public Works would be concerned about water quality.

Ms. Baker stated that calcareous fens are different from Decorah Edge. Decorah Edge issues related to water quality or construction design issues that they need to take into consideration are separate. There have been discussions with the Public Works staff and planning staff regarding the Decorah Shale areas. With regard to water quality, Public Works is working on stormwater management plans and stormwater issues relating to water quality in the community. RPU may be more involved in water quality protection from a drinking water standpoint.

Mr. Burke stated that the 500 trip was indicated as the threshold. He stated that he thought 1200 was the threshold.

Ms. Baker explained that, if a development plan provides for a second access, they can build up to 1200 trips before another access has to be constructed. If the development only shows one access, it would be limited to 500 trips.

Ms. Kristi Clarke, of McGhie and Betts, Inc., addressed the Commission. She stated that the applicant would like to formally request a change from the previously requested R-2 zoning district to the R-1x for the 94.14 acres. By requesting the R-1x zoning district, they would be subject to a higher level of review for the densities shown on the plan.

Ms. Clarke stated that they show 36.36 acres of preserved open space. This represents over 30 percent of the site as undevelopable. She stated that development would be 110 feet away from the calcareous fen (which is a grading limit line). She showed the wetland areas that would be preserved.

Ms. Clarke stated that there would be one 66 foot wide frontage loop road and one 50 foot wide right-of-way, and two private streets. Muhammad Khan and Charlie Reiter, of the Transportation Division of the Rochester-Olmsted Planning Department, have been working with them for over 5 months on the project. The density will be going down as well as the average daily trips by rezoning to the R-1x. The commercial land use will remain the same so

that the average daily trips will remain the same. Mills Fleet Farm and Stone Concepts have indicated that the applicant is not at liberty to use the access. They plan to petition to vacate it within the next month. There is a purchase agreement between them and the applicant stating that they will not use the access. The access does not make sense because it is an incredibly steep area. It would take retaining walls and guard rails. Connecting to 37th Street is not viable since the slope between 37th street and any connection at any spot on the site is over 27 percent grade.

Ms. Clarke stated that Muhammad Khan came up with two alternatives in his analysis: 1) Enterprise Drive and 2) Traffic calming on the extension of Willow Ridge Drive. The applicant supports the second alternative and has been assured by the Transportation Division that they will be within the allowed traffic on the roadway.

Mr. Jeff Broberg, of McGhie & Betts Environmental Services, addressed the Commission. He indicated that he is a licensed professional geologist. He stated that they have been involved in this property since 1999. There are developed properties on all sides of the property, which makes it infill. He understands that individuals that live around the site do not want to give up the open space that has been there in the past.

Mr. Broberg stated that Enterprise Drive would be a 4 lane road that connected ultimately to the frontage road through Greystone to 18th Avenue. McGhie and Betts were asked to do an evaluation of the site for the purposes to run the sewer to the Greystone area and to look at the feasibility of the approach after the project had suffered some reactions from the City because of the style of development that was occurring in the infill area. It is a difficult piece of terrain and is down gradient of everyone.

Mr. Broberg showed and explained all the different wetlands located on the site. He also showed a geologic map based on 20 deep borings and dozens of hand borings. He explained that water cannot penetrate through the layers to the Decorah Edge.

Mr. Broberg stated that a determination was made by the Department of Natural Resources that a wetland on the site has the characteristics of calcareous fen one year ago. By not disturbing that area, it will not affect the calcareous fen.

Ms. Petersson asked if footings would disturb the wetland area.

Mr. Broberg responded no.

Ms. Wiesner asked if they could get another roadway out to the frontage road.

Mr. Broberg stated that Enterprise Drive wouldn't work. There would be two entrances 200 feet away going to the same frontage which wouldn't make sense.

Ms. Wiesner stated that, if a second access is not constructed, the applicant would not be able to develop the property fully.

Mr. Broberg stated that they do not have an area for a second access. They are not allowed to go to Enterprise Drive.

Ms. Baker stated that the development technically has two accesses shown. The primary access would be to the frontage road and the second access would be to Willow Ridge Drive.

Ms. Wiesner asked if both accesses would be enough.

Ms. Baker responded that the City Public Works Department has indicated that the extension of Enterprise Drive should be made for better circulation. However, it is not critical to making the development work.

Ms. Wiesner asked if it was legal to use a purchase agreement to state that they cannot use Enterprise Drive.

Ms. Baker stated it is her understanding, from the purchase agreement, that they are precluded from showing the access. Primarily because, if they show it, it will prompt the need for constructing it. This would prompt the need to construct the part that has been platted but people do not want built. By using the agreement, it prevents the need for the construction of the right-of-way.

Mr. Broberg stated she was correct.

Mr. Broberg stated that there is no City ordinance with regard to Decorah Edge. However, they are avoiding the Decorah Edge areas. They have been meeting or exceeding the level of investigation that is proposed in the County Ordinance.

Ms. Rivas asked if the applicant proposes to apply for a substantial land alteration at some point.

Mr. Broberg responded yes. He showed the areas that would need an SLA.

Mr. Tom Hansen, of COPAR Development, addressed the Commission. He stated that the purchase agreement did specifically exclude their ability to show Enterprise Drive on the general development plan. He explained that the adjoining property owners planned to petition for vacation. He stated that he understands that petitioning for the R-1x zoning district would include additional reviews. He stated that he realizes that he did not do a good job getting back to residents trying to contact him. He indicated that he was more involved in issues around the acquisition of the site. By having additional reviews, it should help alleviate some of the resident's concerns.

Mr. Hansen stated that the two access points shown on the proposed general development plan should accommodate the trips per day for the development.

Ms. Sabrina Ceric, of 3163 Avalon Cove Court NW, Rochester MN, addressed the Commission. She stated that she is not a neighbor, but an 8th grader at John Adams middle school and a participant in a group of four students researching the current community concern of Decorah Edge. She expressed concern with the possible workable solutions to the management of the Decorah Edge in the Rochester area. She stated that several studies have shown that Decorah Edge Shale decreases nitrate levels, which decreases the harmful effects with which young infants may be impacted. Considering the studies and that an approximate 50 percent of Rochester's water runs over the Decorah Edge Shale and is at risk of pollution, they ask if a limitation shouldn't be in place for constructing housing on these areas.

Mr. Alexey Leontovich, of 913 36th Street SW, Rochester MN, addressed the Commission. He indicated that he had background in biology and does biomedical research at the Mayo Clinic.

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He stated that he was present on behalf of neighbors from 36th and 33rd Street SW. He stated that the development is not very well thought through. He expressed concerns with the following:

- poor blending of neighborhoods
- larger lot homes against high density town homes
- small buffers
- plans that do not show what the impact will be
- highly sensitive area which will be difficult to develop without significant damage to the environment, groundwater, and highly compromised home sites
- majority of site is located on the Decorah Edge
- traffic concerns with access
- developer's avoidance with talking with neighbors

Mr. Leontovich stated that he is not against the development of the land, but consideration of the sensitive nature of the land should be taken into consideration.

Ms. Wendy Turri, of 604 33rd Street SW, Rochester MN, addressed the Commission. She indicated that she has worked for the Pollution Control Agency, but is present as a homeowner. She has 21 years in working in the environmental field and a degree in chemistry. Her area of expertise is water. She stated that she has seen some gamma logs as a result of closing wells in the neighborhood. As you go down the hill, it gets shallower. She showed pictures of a spring that runs all summer since the city put in sewer and water. There was a spring located at the lot adjacent to where she lives for at least 17 years. However, the owner of the lot put in fill. Also on the lot, they tried to build a house years ago and it didn't work. She showed pictures of streams, seeps, and gully erosion problems.

Mr. Quinn asked if the areas she indicated were outside the area Mr. Broberg showed as sensitive areas.

Ms. Turri responded the wetland she showed was not shown by Mr. Broberg.

Mr. Zachary Klaus, of 504 33rd Street SW, Rochester MN, addressed the Commission. He indicated that he has lived in the neighborhood since 1960. He showed a seep that was the result of the sewer line constructed. He showed a wetland that was located outside of where Mr. Broberg showed as a wetland. He explained that the site has highly erodible soils and receives groundwater runoff from the Greystone development.

Ms. Turri stated that many homes that have been built on the Decorah Edge have had water problems. She described the costs in basement repairs and the hardship in trying to sell the home.

Ms. Turri stated that there is one treatment plant (Caledonia) in the state that has the ability to remove nitrates from water.

Ms. Turri stated that Terry Lee indicated that this is one of the most important remaining sites in the City of Rochester. The comments received stated that it may impact the groundwater supply and the City's recharge. They encourage the developer to learn more about Decorah Edge to minimize the loss of natural filtration.



Ms. Turri pointed out several areas on the site that are highly erodible.

Ms. Turri questioned why Rochester Public Utilities didn't comment on the development. They stated that they are looking at redoing their recharge zones.

Ms. Turri stated that there are many features showing that there are more Decorah Edge areas on the site than Mr. Broberg is indicating. Therefore, more research should be done.

Ms. Turri expressed concern about losing mature oaks and loss of nitrogen uptake.

Mr. Bruce Winter, of 707 36th Street SW, Rochester MN, addressed the Commission. He indicated that he has lived in the neighborhood for 15 years. He expressed concern that, over the next two years, the development on 40th Street SW will change the flow of traffic patterns, add congestion, etc. He expressed concern with the accuracy of the estimated new daily trips, road capacities, levels of service at intersections, long range traffic planning, private road care and maintenance by various neighborhood associations, congestion at the intersection of Highway 63 and 40th Street SW, Willow Ridge Drive extension into the development, off-street parking, reduced safety caused by increased traffic, noise, and what is actually known about COPAR Development and their expertise. He expressed the following concerns about the developer:

- they were only incorporated since June 2002
- they do not have any previous history of development in Rochester
- no public records found of development activity prior to December 2002
- little history of development in previous communities
- they have four active developments listed on their website
- there is no knowledge if they have completed any developments
- not sure if they have any experience in developing in environmentally sensitive areas

Mr. Alexey Leontovich, of 913 36th Street SW, Rochester MN, addressed the Commission. He asked that the Commission leave the property zoned R-1, deny rezoning until an ordinance is developed for these sensitive areas, make them have significant buffers, and ask that they have a more detailed general development plan.

Dr. Herschel Carpenter addressed the Commission. She expressed concern with doing any construction on these sensitive areas until Decorah Edge is understood completely.

Mr. Tom Hexum (1000 Rocky Creek Drive NE, Rochester MN), representing Mills Properties and Stone Concepts, addressed the Commission. He stated that they plan to vacate Enterprise Drive because it is not viable (engineering wise) to extend it. Mr. Bruce Oakland does not want to pay for it since it adds nothing to his property.

Mr. Hexum stated that Carl Shuler's Industrial Park will also use the frontage road up to the 40th Street SW diamond. There are four access points counted on the frontage road. Only the City wants Enterprise Drive and Carlton Drive extended. When Enterprise Drive is cut off from adjoining onto 40th Street SW, it will go nowhere.

Mr. Hexum stated that there is a Transportation Improvement District in Rochester to put money on building two times the amount of road necessary to extend an engineering scenario behind Fleet Farm. The property is designed in the Willow Creek Transportation Improvement District

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to be a contributor to the 40th Street SW diamond and frontage road system. The proposals in front of the Council right now are based on traffic counts.

Mr. Zachary Klaus, of 504 33rd Street SW, Rochester MN, addressed the Commission. When he first moved into his home, there was an issue in Willow Ridge mobile home park regarding the installation. Promises were made but fell through. For example, a water tower was to be paid by the City. However, the residents ended up paying for it. He stated that the reason the applicant is requesting the zone change is to maximize their profits at the expense of the existing neighborhoods. He expressed concern with the proposed density.

Mr. Klaus indicated that the developer told him that it would be difficult to put a buffer in because he would be building within 25 feet of the lot lines. Mr. Hexum indicated that the residents should put a buffer up on their own property. He stated that they have a power line, cable, and telephone lines located there. Therefore, there is no room for a buffer on their own property. He also expressed concern with looking at one large building from his back yard.

Ms. Wiesner stated that they are not looking at house styles at this meeting.

Mr. Klaus questioned how they would get their density per acre and not look at a solid wall of a building.

Mr. Klaus stated that he collects antique tractors and wanted to put a large garage in the back of his yard. He was not allowed to because it didn't fit the residential area. A neighbor down the street asked for a variance to build a large garage so that he could locate a business there. He went before a Board to ask for the variance. All the neighbors stated that they were in favor of it and the Board took the input. He stated that the neighbors present at the meeting are not in favor of the proposed general development plan. They do not support the high density. He stated that he thinks Mr. Broberg is underplaying some of the conditions on the site.

Mr. Klaus stated that the water and sewer lines would go through the Decorah Edge, even though they do not plan on putting in basements.

Mr. Klaus stated that, if the development is approved, the neighbors of 36th Street SW, 33rd Street SW, and Southtown Heights will live with the impact of this development.

Mr. Jeff Broberg, of McGhie & Betts Environmental Services, addressed the Commission. He made the following presentation verbatim:

I think there are a number of inaccuracies that need to be corrected. I am concerned that the opponents predictably have peppered the public record with issues that aren't specifically related to this site. They showed erosion potential at Manorwoods, some of the most highly erodible soils in the County that aren't the same soil types that are here. I am particularly grieved that we have students that are under the misrepresentation of poorly collected and poorly designed data. The nitrogen reduction that is hypothesized about this is not proven. It's a study that they only show the results, Mr. Lee, only shows the results that suit his conclusion. He has other data that does not show nitrogen reductions. The knowledge that exists about those systems is that those wetlands cycle nitrogen. That if you test in August you have nitrogen uptake in the plants, if you test in December you have the release. It is an incompletely understood system. This gets to the point of why RPU is taking a slow approach to this. We don't have all of the answers related to this and so the hand that we are dealt is to identify those areas that have the



highest risk and avoid them. We have done that in this plan. We have identified the areas, the geologically sensitive areas, and we have proposed the avoidance of those for construction reasons and groundwater protection reasons. And to suggest otherwise, is a detriment to the community. I mean we need to encourage developers to come in and do the type of investigation that identifies where these issues exist so that we can do the avoidance. So, I would be happy to answer any questions but I would like to ask all of you to become more familiar with this Decorah Edge issue. You need to talk to the experts that are with the United States Geological Service, the Minnesota Geological Survey, and those people doing the investigations. This community has not invited those people to participate in this discussion. We have a one man band making a promotion of an issue that needs to be better understood. We have essentially provided Mr. Lee, the County water planner, with practically everything he knows about this. McGhie and Betts, our firm, has done that through this sort of site investigation.

Mr. Quinn asked Mr. Broberg to comment on the slides and situation at the edge of the property on the north. This area is outside of any listed protected area.

Mr. Broberg stated that he is familiar with the spring and know that there are deep soils in the area where the road crosses the Decorah Edge. It escapes into the permeable soils in the subsurface in that area. The things he has heard that have occurred in that development are regrettable (illegal wetland filling and lack of attention to the details as they cut sewers). He stated that those are things they know better than to do on this development. It is a public responsibility to support the people who are doing the work to understand the issues. They have approximately 5 acres in the area where they are crossing onto the Decorah Edge terrace. They have relatively thick soils. The other slides that were shown are in the stream. They are protecting the stream corridor. They know where the seeps are. He showed where the dry Decorah slope was located. The details of the plan will come after they have a general development plan approved. They need to have a sense of where the roads will be located so they can avoid the problems and engineer the solutions that are appropriate. Groundwater protection is an important community aspect.

Ms. Petersson asked if it wouldn't be as developable in the R-1 zoning district.

Mr. Broberg responded that it was developable in the R-1 zoning district. It is a fairness notion in some regard. He indicated that the areas they are preserving are areas that are developable. He asked for recognition, if they are preserving 30 percent of the site as sensitive, can't they have a higher density sensitive development in the areas that are suitable.

Mr. Burke stated that City did some damage when they ran utilities to Southtown Heights. He asked if the developer plans to resolve some of those problems.

Mr. Broberg stated that he was not sure if they could correct them. There are techniques to protect their development.

Ms. Kristi Clarke, of McGhie and Betts, addressed the Commission. She stated that they have done some studies in that area because they have been asked to connect the sewer from what was Greystone (Barony Woods). The seep is significant and they will show at least a 30 to 50 foot drainage. She concluded that they agree with the staff-recommended conditions, excluding the connection with Enterprise Drive.

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Ms. Clarke stated that they have completed over 3 years of environmental analysis with over 100 test pits. Most of the slides presented happened in an area that they are not proposing to develop on. They can only get 5.5 units per acre in the R-1x zoning district if they do not want to have additional review by the Commission. This would be 1.5 units over single family. Each area will most likely develop between 5.5 and 8. Therefore, the Commission will have the opportunity to review the specific buildings, styles of housing, grading, seepage and environmental issues of each of the areas.

Ms. Jennifer Mann, of 715 36th Street SW, Rochester MN, addressed the Commission. If the R-1x zoning district were approved, there would be a lot of conditions that could change. She asked that the Commission to review pages 138-141 of the Zoning Ordinance. Next Tuesday, December 16, 2003, there is a County Board meeting that they will be asked to initiate land development control changes as a means of preserving the groundwater recharge and pollution buffer processes that occur at the terminal edge of the Decorah Shale. Measures being suggested include adopting an overlay zoning district, requiring on-site investigation of groundwater flows within an overlay zone, and requiring development that minimizes impacts to the groundwater recharge processes. This could be a turning point for the City of Rochester and Olmsted County. Therefore, the Commission should hold off on rezoning the property until this is reviewed by the City and County. The DNR has not been included in the City and County for input, as indicated by Don Nelson from the DNR. In Minnesota, a project developer is responsible for hiring a consultant to delineate "qualifying measure areas that are identified as wetlands." This creates a big conflict of interest resulting in the delineation of the wetlands to be of smaller acreage and lower quality than what would be identified by an unbiased consultant. The consultant may or may not use standard procedures because there are no government program certification or licensing active in the state.

Mr. Wheeler explained that the DNR receives a referral on every application that comes through our department. They also serve on the Technical Evaluation Panel that addresses wetlands. Also, they have been involved in reviewing the County versions of the Decorah Edge draft ordinances.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Ms. Petersson stated that she could not support the development knowing that the County Board would be looking into Decorah Edge next week.

Mr. Wheeler stated that the County Board has not initiated the amendment yet. He indicated that he thought they would in February. He explained that there is a difference in the concerns by the City and the County. Because the average density of development in a suburban development has to be 3 acres per lot, the precision with which they identify potential impacts on development value goes down considerably. The Commission has an obligation to review the application under the City ordinances now in effect.

Mr. Quinn asked Mr. Wheeler to comment on Enterprise Drive.

Mr. Wheeler responded that he did not know the circumstances of the extension of Enterprise Drive.

Ms. Baker stated that she had discussion with Rochester Public Works on the extension of Enterprise Drive. They are standing firm on their recommendation. To some degree, it appears as though the development can work without it.

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Ms. Petersson stated that she could not support the development because Enterprise Drive is not shown on the general development plan and she is concerned about the groundwater.

Ms. Rivas stated that they had a good example in the last request of a developer working with the community. She stated that she would like the applicant to work with community and get more details on whether there is a need for Enterprise Drive or not. Also, she would like information on the location of houses and where the soil borings were.

Mr. Burke stated that, in order for the applicant to make the densities work, they are having to work with a smaller area. They are attempting to avoid the sensitive areas. He indicated that he did not think they could accomplish this through the R-1 zoning district. The advantage with the R-1x zoning district is that they would have to come before the Commission again. If the property is left in the R-1 zoning district, they might have to expand out into the sensitive areas to make it work for them.

Ms. Petersson stated that an option would be to recommend a moratorium on building in the Decorah Edge areas until more is known.

Mr. Staver stated that it would not be appropriate to create a moratorium while the developer is going through the process. He indicated that the property is unique and has many challenges he is not comfortable with.

Mr. Haeussinger stated that the Commission would not have straight forward answers for quite some time. He stated that conservation zones should be considered.

Ms. Petersson moved to recommend denial of General Development Plan (GDP) #219, to be known as Spring Brook Valley as it does not show the extension of Enterprise Drive.

Mr. Staver stated that most of the Commission's discussion has focuses on Criteria F regarding drainage, erosion, and construction.

Ms. Petersson agreed with Mr. Staver with regard to his recommended finding.

Mr. Haeussinger seconded the motion. The motion failed 4-5 with Mr. Burke, Mr. Ohly, Ms. Wiesner, Mr. Quinn, and Mr. Dockter voting nay.

Mr. Quinn moved to recommend approval of General Development Plan(GDP) #219, to be known as Spring Brook Valley with the staff-recommended conditions and findings (without the extension of Enterprise Drive). Mr. Burke seconded the motion. The motion carried 5-4, Ms. Petersson, Mr. Staver, Mr. Haeussinger, and Ms. Rivas voting nay.

CONDITIONS:

1. Prior to Final Plat submittal, the applicant shall enter into a Development Agreement with the Cit that outlines the obligations of the developer/owner relating to, but not limited to Ownership & Maintenance of the Wetland Areas, TID/Substandard Street Reconstruction charges, stormwater management, park dedication, traffic improvements, pedestrian facilities, right-of-way dedication, access and extension of utilities for adjacent properties, and contributions for public utilities.

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2. A regional stormwater management facility will be required within this GDP site. The concept of several small detention ponds along the wetland/stream may be permitted as an aesthetic feature, but may not fulfill the Owner's obligations for providing Stormwater Management.
3. Pedestrian facilities are required at the Owner's expense along both sides of all new public roads within this development, and along the entire frontage of the GDP abutting the west frontage road. Mid block connections must be provided as required by Ordinance. The developer/owner shall also provide pedestrian facilities between the northern extent of Willow Ridge Drive through Spring Brook Valley to the public road system within the development. In addition, a pedestrian trail shall be extended at the Owner's expense through the sanitary sewer corridor to the west property line. Specific obligations will be addressed in the Development Agreement.
4. Prior to designing grading plans or further development proposals for this property, the developer will need to study the impact that the proposed development will/could have on the Fen. In particular, the roadway and development area shown in "Area C" on the Plan could have adverse impacts on the groundwater and surface water flows towards the Fen. Prior to approval of any land disturbing activities in the areas adjacent to the Fen (i.e. Area C), the applicant shall coordinate with the Planning Department and MN DNR to verify that development activities will have no adverse impacts on the Fen in the near future or long term.
5. A revised GDP shall be filed with the Planning Department identifying all delineated Wetlands on the property.
6. Approval is Contingent upon negative findings for an EAW and completion of a study of groundwater and surface water flow of the site. Any Modifications to the Plan to mitigate or avoid adverse environmental impacts identified through the EAW process, or through further assessment of the Site's hydrology will need to be reflected in a revised GDP.
7. Staff reviewed this application with a two way private roadway proposed as a connection to Willow Ridge Drive, as requested by the applicant. If this connection is approved as a private two way road, the Owner will be required through the Development Agreement process to dedicate public access rights over the private roadway to allow traffic flow between the proposed and existing development.
8. At the time of development, water main extension and hosing of systems must be completed per the requirements of RPU Water.
9. Parkland dedication requirements shall be met via dedication of the 3.5 acre public park shown on the Revised Plan dated November 14, 2003. The balance of dedication (total approx. 7.0 acres), shall be in the form of cash in lieu of land or negotiated street construction costs for the park site frontage.

Mr. Quinn moved to recommend approval of Zoning District Amendment #03-22 (to the R-1x zoning district) with the staff-recommended findings. Mr. Burke seconded the motion. The motion carried 7-2, with Ms. Petersson and Mr. Staver voting nay.

